

**ZB# 02-02**

**Franco Fidanza**

**45-1-40.21**

Prelim.

Jan. 14, 2002.

Sign?

Public Hearing:

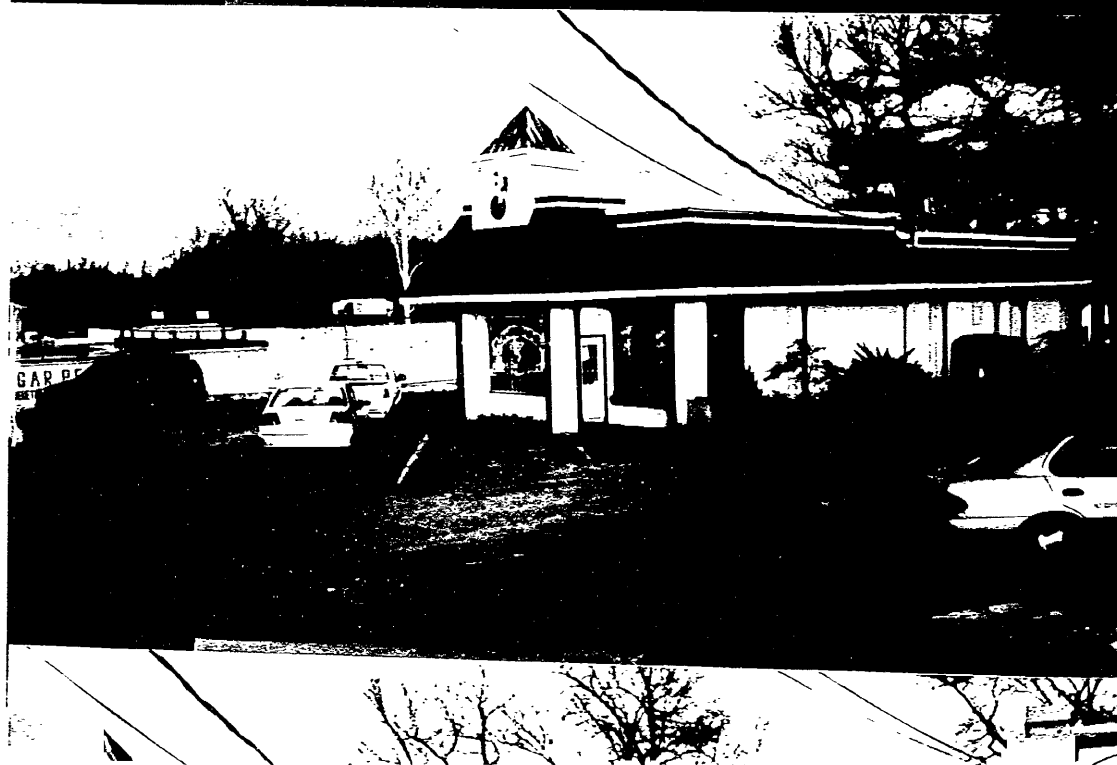
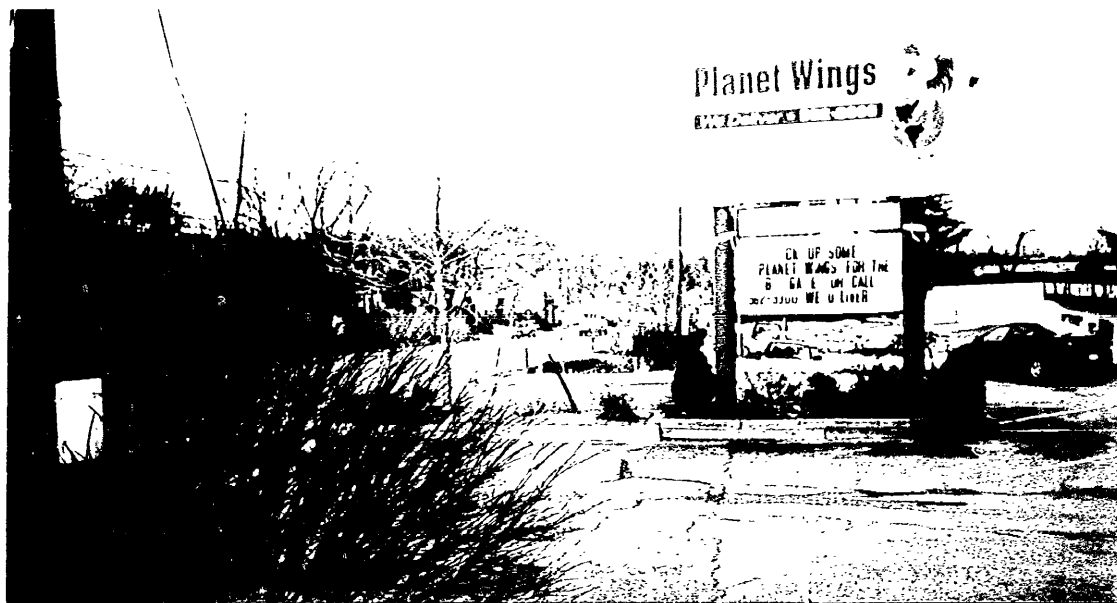
March 11, 2002.

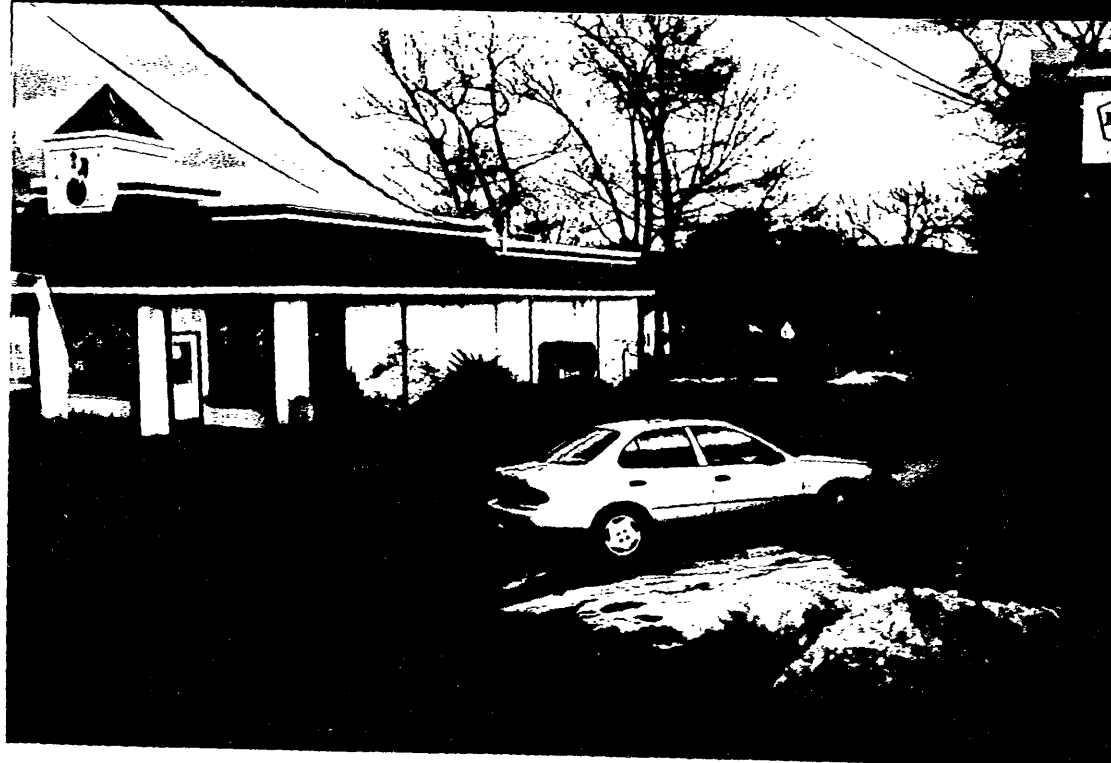
Approved

Requid: 301.5-

#02-02 Tidanza, Franco

(Planet Wings) 45-1-40.21.





ZBA # 02-02  
Variance App.

Town of New Windsor  
555 Union Avenue  
New Windsor, NY 12553  
(845) 563-4611

**RECEIPT**  
**#202-2002**

**02/25/2002**

**Planet Wings, Inc.**

**Received \$ 150.00 for Zoning Board Fees on 02/25/2002. Thank you for  
stopping by the Town Clerk's office.**

**As always, it is our pleasure to serve you.**

**Deborah Green  
Town Clerk**

PLANET WINGS, INC.  
CREDIT CARD ACCOUNT  
171-173 W MAIN ST  
MIDDLETOWN, NY 10940

DATE

2/25/02

1065

1-108/210

PAY TO THE  
ORDER OF

Town of New Windsor

\$ 150.00

One hundred & Fifty

DOLLARS

Security features  
include:  
Details on back

Marine Midland Bank

PLAZA OFFICE  
291 ROUTE 211 EAST  
MIDDLETOWN, NEW YORK 10940-2821

FOR

Variance App. # 02-02

*[Signature]*

⑆021001088⑆478900490⑆

1065

PLANET WINGS, INC.  
CREDIT CARD ACCOUNT  
171-173 W MAIN ST  
MIDDLETOWN, NY 10940

DATE

2/25/02

1066

1-108/210

PAY TO THE  
ORDER OF

Town of New Windsor

\$ 500.00

Five hundred

DOLLARS

Security features  
include:  
Details on back

Marine Midland Bank

PLAZA OFFICE  
291 ROUTE 211 EAST  
MIDDLETOWN, NEW YORK 10940-2821

Shades / ATT # 02-02

*[Signature]*

⑆021001088⑆478900490⑆

1066

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Lidanza, Franco  
\_\_\_\_\_  
\_\_\_\_\_

FILE# 02-02.

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

INTERPRETATION: \$150.00

AREA X Sign

USE     

APPLICATION FOR VARIANCE FEE ..... \$ 150.00

\* \* \*

ESCROW DEPOSIT FOR CONSULTANT FEES ..... \$ 500.00

*Paid 2/25/02  
#1065  
#1066 - 2/25/02.*

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE <sup>1/14/02</sup> ..... 6 ..... \$ 27.00  
2ND PRELIMINARY- PER PAGE <sup>3/11/02</sup> ..... 7 ..... \$ 31.50  
3RD PRELIMINARY- PER PAGE ..... \$ \_\_\_\_\_  
PUBLIC HEARING - PER PAGE ..... \$ \_\_\_\_\_  
PUBLIC HEARING (CONT'D) PER PAGE ..... \$ \_\_\_\_\_  
TOTAL ..... \$ 58.50.

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: <sup>1/14/02</sup> ..... \$ 35.00  
2ND PRELIM. <sup>3/11/02</sup> ..... \$ 35.00  
3RD PRELIM. .... \$ \_\_\_\_\_  
PUBLIC HEARING. .... \$ \_\_\_\_\_  
PUBLIC HEARING (CONT'D) ..... \$ \_\_\_\_\_  
TOTAL ..... \$ 70.00

MISC. CHARGES:

..... \$ \_\_\_\_\_  
TOTAL ..... \$ 128.50.

LESS ESCROW DEPOSIT ..... \$ 500.00.  
(ADDL. CHARGES DUE) ..... \$ \_\_\_\_\_  
REFUND DUE TO APPLICANT .. \$ 371.50.

Date 3/27/02, .....

# TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO Planet Kings, Inc. DR.  
171-173 W. Main St., Middletown, NY 10940.

[illegible]



-----X

In the Matter of the Application of

**FRANCO FIDANZA/PLANET WINGS**

#02-02.

-----X

**MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCE**

**WHEREAS, FRANCO FIDANZA**, owner of Planet Wings, Windsor Highway, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 22 ft. front yard variance at the above location, in a C zone; and

**WHEREAS**, a public hearing was held on the 11th day of March, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared by Philip Higby for this proposal; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, no one spoke either in favor or against the Application; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
  - (a) The property is a commercial property located in a neighborhood of commercial properties on a busy State highway.
  - (b) The Applicant seeks to expand his commercial premises by constructing an addition in front of the present building.
  - (c) It is not appropriate that an addition be constructed in the rear of the premises.
  - (d) The lot in question meets all other commercial requirements because it is a pre-existing, non-conforming lot.

- (e) If the proposed addition were permitted, there would still be sufficient parking on the lot to comply with the requirements of the Town Zoning Code.
- (f) The Application was opposed by two owners of neighboring, commercial properties which opposition was expressed as letters written to the Zoning Board of Appeals, although neither actually appeared at the meeting.
- (g) The proposed addition, if permitted, will not interfere with the visibility of motorists on the adjacent roadway.
- (h) The variance requested is the minimum necessary for the Applicant to construct an addition, which will meet his needs.
- (i) The proposed addition could not be placed in the rear of the restaurant since it would interfere with truck unloading and deliveries.
- (j) The proposed addition, if permitted, will not encroach on any water or sewer easements, create any water hazards or affect the drainage of water.
- (k) The location of the proposed addition is currently paved so that the surface is already an impervious surface and will not add to the impervious surface of the lot.

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.
4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variance as previously stated is reasonable in view of the size of the building, its location, and its appearance in relation to other buildings in the neighborhood.

8. The interests of justice will be served by allowing the granting of the requested area variance.

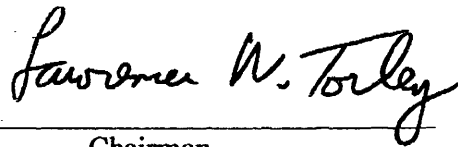
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 22 ft. front yard variance for an addition to Planet Wings at the above location, in a C zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: May 13, 2002.

A handwritten signature in black ink, reading "Lawrence W. Torley". The signature is written in a cursive style with a long, sweeping tail on the "y".

---

Chairman

Date ..... 3/13/12 .....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... Frances Roth  
100 W. Dury Lane  
New Windsor, N.Y. 12550 ..... DR.

DATE			CLAIMED	ALLOWED
3/11/12		2nding Board Mtg	75.00	
		Misc. 3		
		M.H. King Estates - 2		
		Coplan - 4		
		Potter - 3		
		Brown - 3		
		Cleaves/Gatt - 4		
		Digeraty - 9		
		Dean - 1		
		Fidanza - 7 31.50.		
		- 36	1162.00	
			<u>1162.00</u>	
			237.00	

FIDANZA, FRANCO

MR. TORLEY: Request for 22 ft. front yard variance for addition at Planet Wings on Windsor Highway in a C zone.

Mr. Philip Higby appeared before the board for this proposal.

MR. HIGBY: My name is Philip Higby, I'm the architect. Mr. Fidanza is here, he's the owner.

MR. TORLEY: Before you begin, a formality, is there anyone in the audience besides the applicants wishing to speak to this matter? Let the record so note there is none.

MR. HIGBY: We have an application to the zoning board to get an area variance to the front yard from the required 60 feet to the 38 feet and we have shown on the site plan what we'd like to do is to, what Mr. Fidanza would like to do is to upgrade his building by putting on the addition to basically renovate a building that no longer meets his needs. He's basically outgrown the building, so he's looking to add square footage in the front to do the upgrade. We're here, we want to do the addition, if we get the approval, then we go back to the planning board for basically completion of the planning board review. But we're being sent here just because of the variance for the front yard. Now, the front yard, in looking at the plan, basically, the plot plan is a, the parcel is 5/10 of an acre and it's pre-existing, non-conforming lot in that it's 1/2 acre, 22,000 square feet as opposed to the required 40,000 and it also is the lot width is 100 feet as opposed to 200 feet. Basically, the only place that we can do anything with the building at all is in the front yard. The intent is to generate additional dining room space, the back of which is currently a small area in the front of the building, the back of the building is the kitchen service and whatnot so and the width of the property, as I say, is 100 feet. There's no room left to right to go out either side, currently taken up by the aisle and the parking spaces for the building, so we're looking to delete four

spaces I believe in front of the building and recreate 6 spaces in the back of the building, so we end up with a net increase of two parking spaces but we're looking to really to dress up the building with the addition and make a betterment for the neighborhood.

MR. KANE: Even with the addition coming on, you're going to be adding 25 parking spaces which will put you 7 over the requirement for that?

MR. HIGBY: Eighteen required, yes, that's correct. What we're looking to do is to again put the addition in the front yard, but also to dress it up, not only the addition to be aesthetically pleasing, but also, you know, to do something with the remainder of the building, some interior modifications, as well as dressing up the outside. And obviously, as I say, this is a building that needs to have the expansion, needs to have the upgrade because of Mr. Fidanza's growth in the business, it basically, the existing building, it cannot be upgraded, does not suit his needs, in a nutshell. So we're looking to get the approval from the zoning board in order to proceed on that. The area in the front of the building we're looking to create a little outdoor landscape seating area, nothing that would handle a huge amount of tables, maybe two or three tables to get some exposure to the building to allow patrons to go out on nice days to eat outside and also do some low shrubbery landscaping as well. It also serves to enhance the directional flow of traffic through the parcel, in terms of one way in, one way out. The curb cuts are existing, so we're not really looking to do anything with that, so basically maintaining the traffic flow. There are other improvements that Mr. Fidanza would like to do with the approval on this again dressing up the outside of the building, possibly repaving the parking lot, restriping the parking lot and as I say, a general upgrade on the outside appearance of the building.

MR. KANE: Any sign changes on the building?

MR. HIGBY: On the building, there will be letters on the building, yes.

MR. KANE: So you're using the existing building signs are going to remain right now?

MR. HIGBY: Well, they'll been upgraded, per se, in terms of--

MR. KANE: But within the same dimensions? Otherwise, you may need another variance.

MR. HIGBY: There's something in the zoning ordinance 25 square feet of signage which I believe would probably fit with the, you know, new signage in terms of channel letters on the building, yes.

MR. TORLEY: Does the freestanding sign meet the code as it stands?

MR. BABCOCK: It's not really telling me what the size is.

MR. TORLEY: I'm looking at the picture, sure doesn't look like it.

MR. KANE: But it's existing right now.

MR. BABCOCK: The top piece does, I would say that that is probably 4 x 8, the bottom I would assume is the changeable letters, you know, showing his specials.

MR. TORLEY: If we can clean everything up at once.

MR. KANE: Without the measurements, it would be hard.

MR. TORLEY: We'll have to put that aside.

MR. TORLEY: There are two letters from adjoining property owners I want to read into the record.

MS. CORSETTI: Can I put in the record that on February 25, we sent out 44 legal notices to adjacent property owners and we got two back from Florida and you got four, thanks, or three, very good.

MR. TORLEY: From Mr. Rudolph Rotmeyer.

MS. CORSETTI: That's Rudy's Pork Store.

MR. TORLEY: "I'm against the permit of a variance to the zoning law 60 foot setback. The reason would be difficult for customers coming from the north to make out our building." The second one is from Mr. Charles Catanzaro who owns the property on the other side.

MS. CORSETTI: He's within the area.

MR. TORLEY: This isn't adjacent property.

MR. TORLEY: Florida fax, Florida telephone, just says adjacent property.

MS. CORSETTI: He owns 45, 1, 41.1.

MR. TORLEY: It says "Zoning board of appeals rules are made not to be broken. I'm an adjacent property owner and I feel strong that the projected front yard setback will impede the view of my property from oncoming traffic, thus reducing the value of my property making it more difficult to rent. I will ask the board not to grant the variance." One thing I never heard of anything in the code that you have a right to be seen across somebody else's property.

MR. HIGBY: I'm, it's the neighbor on either side? I'm confused.

MS. CORSETTI: The other is Catanzaro, 45, 1, 41.1, here's Catanzaro's property here.

MR. KANE: West of?

MS. CORSETTI: Applicant's property is 40.21 right here.

MR. TORLEY: Not the next door neighbor, the one further down, what's that?

MR. REIS: That's where the karate place is.

MR. BABCOCK: It's a karate school.



MR. HIGBY: I think you'd be passed our addition before you start to see his building, I mean, the other thing that's happening, too, is you can probably see it in the picture is the lay of the land comes down where Mr. Fidanza's building is basically in the middle on either side of the property, you know, if you're coming down, it's not going to obstruct anything on the one side and on the other side of the building is already down low and you wouldn't be able to see it in front.

MR. TORLEY: You have the existing sign, how high is the new building going to be?

MR. HIGBY: One story really hasn't been designed yet, but I'd say probably 20 feet, something of that nature.

MR. TORLEY: It looks like it would protrude maybe five feet closer to the road than they are, according to the Rotmeyer plan.

MR. HIGBY: Yeah, maybe five or ten, they're already, you know, they're arguing against themselves because they're already ahead of our building as it is.

MS. CORSETTI: You should complain about them.

MR. HIGBY: That's right.

MR. TORLEY: This new construction will not impede the sight lines as far as traffic anyway.

MR. HIGBY: No, we're going to be back still from the property line itself, the property line is right near the base of the sign post behind it and from the sign post, you've probably got another 15 to 18 feet to the actual right-of-way of the road pavement, so 15 to 18 plus the 38 feet you're 45 to 50 feet back from the edge of the pavement, in any event. So, I mean, that's plenty of room for at least two to three cars to stack there, you know, without their vision being impaired either way.

MR. TORLEY: I'm glad to see a businessman succeeding to the point that he needs to expand his business.

MR. KANE: It's a lot of wings.

MR. REIS: Just for the record, would it be economically feasible to lessen the requested variance and still accomplish what you need?

MR. HIGBY: We have toyed with that, but he's basically, we've gone around and said this is what we need in order to expand.

MR. TORLEY: Were you to put the new dining area on the back side, you'd be building a dining area next to the food preparation site?

MR. HIGBY: Truck comes in, does the unloading, the service food preparation, carried out to the dining room in the front.

MR. KRIEGER: If you put it in the back, it would interfere with the truck unloading?

MR. HIGBY: Yes, it would, but the whole interior operation of the store it would have to be gutted, the plumbing, yes, yes.

MR. TORLEY: Economically clearly an unfavorable result?

MR. HIGBY: Yes.

MR. KANE: In the building you're not going to be creating any water hazards or anything along those lines?

MR. HIGBY: No.

MR. TORLEY: Not encroaching on any water or sewer easements?

MR. HIGBY: No.

MR. KANE: You feel the building itself is going to be similar, it's not going to change the character of the neighborhood you're in now?

MR. HIGBY: No, I think it will be an improvement.

MR. KANE: Thank you. Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move we approve the application by Frank Fidanza for his requested variance at Planet Wings on Windsor Highway.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 01-59

DATE: 5 DEC 01

APPLICANT: FRANCO FIDANZA

#1 1-14-02  
SET UP FOR P/H

24 SUNNYSIDE AVE  
MIDDLETOWN N.Y. 10940

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 3 OCT 01

FOR ~~DISAPPROVAL~~ - SITE PLAN) \_\_\_\_\_

LOCATED AT ROUTE 32

ZONE \_\_\_\_\_

DESCRIPTION OF EXISTING SITE: SEC: 45 BLOCK: 1 LOT: 40.21

IS DISAPPROVED ON THE FOLLOWING GROUNDS: \_\_\_\_\_

FRONT YARD VARIANCE  
(AREA AND WIDTH IF DEEMED REQ'D BY ZBA)

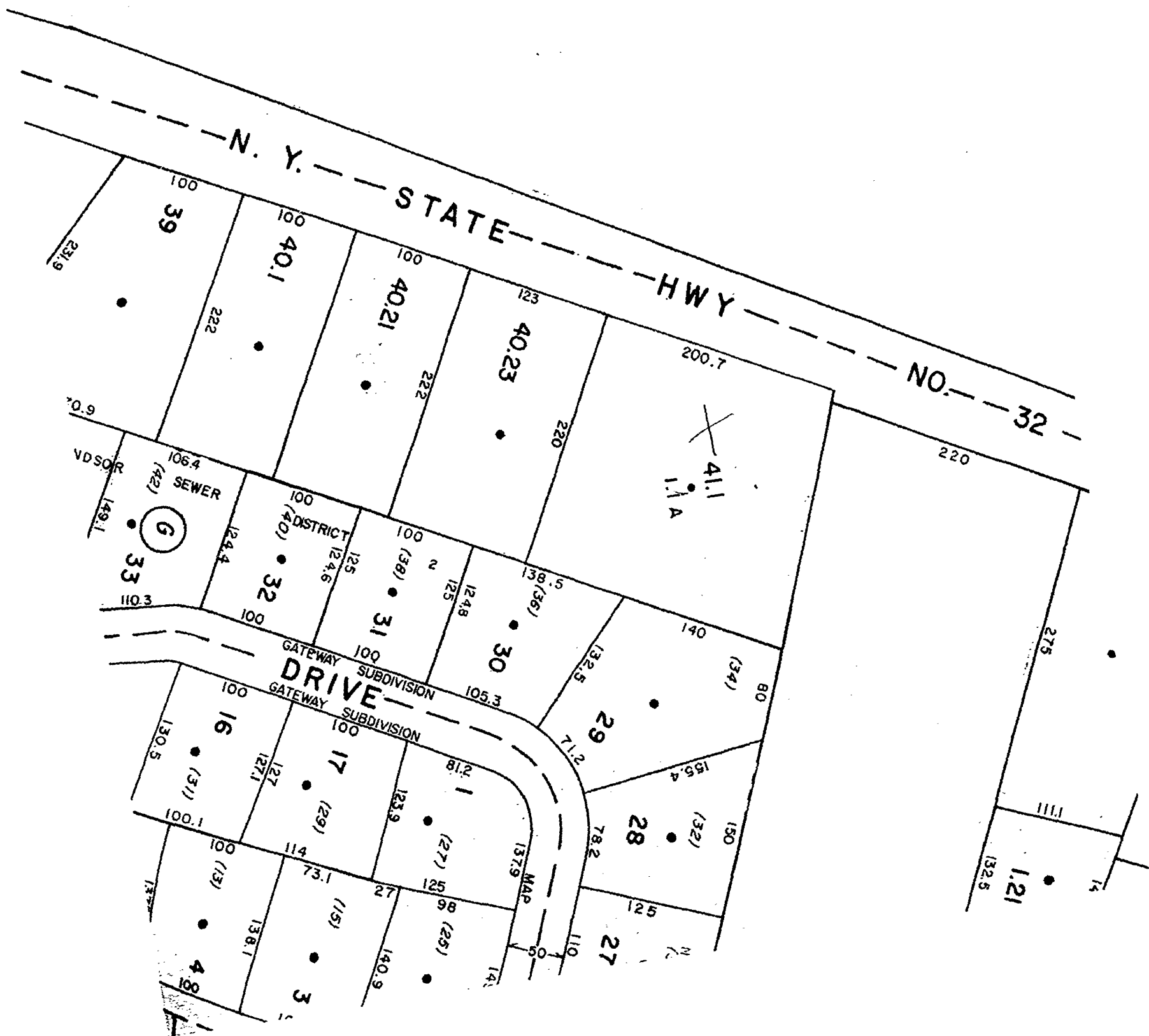
  
MICHAEL BABCOCK,  
BUILDING INSPECTOR

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE	<u>C</u>	EATING-DRINKING ESTB. USE <u>A-1 B</u>	
MIN. LOT AREA	<u>40 000 SF</u>	<u>22 172 SF</u>	<u>17,828 SF</u> **
MIN. LOT WIDTH	<u>200 FT</u>	<u>100 FT</u>	<u>100 FT</u> **
REQ'D FRONT YD	<u>60 FT</u>	<u>38 FT</u>	<u>22 FT</u>
REQ'D SIDE YD.	<u>30 FT</u>	<u>38 FT</u>	<u>—</u>
REQ'D TOTAL SIDE YD.	<u>70 FT</u>	<u>75.7 FT</u>	<u>—</u>
REQ'D REAR YD.	<u>30 FT</u>	<u>88 FT</u>	<u>—</u>
REQ'D FRONTAGE	<u>N/A</u>	<u>—</u>	<u>—</u>
MAX. BLDG. HT.	<u>12' FT NULL = 38 FT</u>	<u>20'-4"</u>	<u>—</u>
FLOOR AREA RATIO	<u>0.5</u>	<u>0.1</u>	<u>—</u>
MIN. LIVABLE AREA	<u>N/A</u>	<u>—</u>	<u>—</u>
DEV. COVERAGE	<u>N/A</u> %	<u>—</u> %	<u>—</u> %
O/S PARKING SPACES	<u>1/3 = 5 2/3 = 18</u>	<u>25</u>	<u>—</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:  
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD  
OF APPEALS. \*\* PRE-EXISTING NON-CONFORMING CONDITION

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

SECTION  
35



02/25/2002 22:35 8453442958

PLANET WINGS

PAGE 02

**ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE**  
**THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE**



TYPE NAME(S) OF PARTY(ES) TO DOCUMENT: BLACK INK

JAN A. HEADLEE

TO

PLANET WINGS, INC.

SECTION 45 BLOCK 1 LOT 40.21

RECORD AND RETURN TO:

(Name and Address)

THERE IS NO FEE FOR THE RECORDING OF THIS PAGE

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH

RECORDED INSTRUMENT ONLY

Richard J. Shapiro, Esq.  
 Shapiro & Shapiro, Esqs.  
 125 Wickham Avenue  
 Box 2121  
 Middletown, New York  
 10940

## DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED ☒ MORTGAGE \_\_\_\_\_ SATISFACTION \_\_\_\_\_ ASSIGNMENT \_\_\_\_\_ OTHER \_\_\_\_\_

## PROPERTY LOCATION

2000 BLOOMING GROVE (TN)  
 2001 WASHINGTONVILLE (VLG)  
 2200 CHESTER (TN)  
 2201 CHESTER (VLG)  
 2400 CORNWALL (TN)  
 2401 CORNWALL (VLG)  
 2600 ORAWFORD (TN)  
 2800 DEERPARK (TN)  
 3000 GOSHEN (TN)  
 3001 GOSHEN (VLG)  
 3003 FLORIDA (VLG)  
 3005 CHESTER (VLG)  
 3200 GREENVILLE (TN)  
 3400 HAMPTONBURGH (TN)  
 3401 MAYBROOK (VLG)  
 3600 HIGHLANDS (TN)  
 3601 HIGHLAND FALLS (VLG)  
 3800 MINISINK (TN)  
 3801 UNIONVILLE (VLG)  
 4000 MONROE (TN)  
 4001 MONROE (VLG)  
 4003 HARRIMAN (VLG)  
 4005 KIRYAS JOEL (VLG)

4200 MONTGOMERY (TN)  
 4201 MAYBROOK (VLG)  
 4203 MONTGOMERY (VLG)  
 4205 WALDEN (VLG)  
 4400 MOUNT HOPE (TN)  
 4401 OTISVILLE (VLG)  
 4600 NEWBURGH (TN)  
 4800 NEW WINDSOR (TN)  
 5000 TUXEDO (TN)  
 5001 TUXEDO PARK (VLG)  
 5200 WALLKILL (TN)  
 5400 WARWICK (TN)  
 5401 FLORIDA (VLG)  
 5403 GREENWOOD LAKE (VLG)  
 5405 WARWICK (VLG)  
 5600 WAWAYANDA (TN)  
 5800 WOODBURY (TN)  
 5801 HARRIMAN (VLG)

## CITIES

0800 MIDDLETOWN  
 1100 NEWBURGH  
 1300 PORT JERVIS

0000 HOLD

NO. PAGES 2 CROSS REF  
 CERT. COPY \_\_\_\_\_ AFFT. \_\_\_\_\_

PAYMENT TYPE: CHECK ☒  
 CASH \_\_\_\_\_  
 CHARGE \_\_\_\_\_  
 NO FEE \_\_\_\_\_

CONSIDERATION \$ 160,000.00  
 TAX EXEMPT \_\_\_\_\_

MORTGAGE AMT \$ \_\_\_\_\_  
 DATE \_\_\_\_\_

## MORTGAGE TYPE:

\_\_\_\_ (A) COMMERCIAL  
 \_\_\_\_ (B) 1 OR 2 FAMILY  
 \_\_\_\_ (C) UNDER \$10,000  
 \_\_\_\_ (E) EXEMPT  
 \_\_\_\_ (F) 3 TO 8 UNITS  
 \_\_\_\_ (I) NAT. PERSON OR UNION  
 \_\_\_\_ (J) NAT. PER-OR. UN. OR 2  
 \_\_\_\_ (K) CONDO

*Donna L. Benson*

DONNA L. BENSON  
 Orange County Clerk

RECEIVED FROM:

*Hardenburgh*

LIBER 4774PG 242

LIBER 4774 PAGE 242

ORANGE COUNTY CLERK'S OFFICE 24353 MRL  
 RECORDED/FILED 04/30/98 03:19:36 PM

FEES 41.00 EDUCATION FUND 5.00  
 SERIAL NUMBER: 007400

RE TAX 640.00

05:11 (NOM) 20. 52 834

02/25/2002 22:35 8453442958

PLANET WINGS

PAGE 03

PLANET WINGS, INC., a New York Corporation with offices at 24 Sunnyside  
Avenue, Middletown, New York 10940

party of the second part.

**WITNESSETH**, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the TOWN OF NEW WINDSOR, County of Orange, State of New York, and being more accurately bounded and described as follows:

**BEGINNING** at a point in the southeasterly line of New York State Route 32, said point of beginning being located 1385.87' as measured along the southeasterly line of Route 32 from its intersection with the easterly line of Old Forge Hill Road; thence from said point of beginning and along the southeasterly line of Route 32, North 41° 23' East 100.0' to a point; thence leaving Route 32, South 48° 37' East 222.0' to a point in the lands now or formerly of Schoonmaker Bros.; thence along the line of lands now or formerly of Schoonmaker Bros. South 41° 23' East 100.00' to a point; thence north 48° 37' West 222.0' to the point of **BEGINNING**.

**BEING** the same premises conveyed to the Grantor herein by deed dated February 12, 1987 and recorded on March 27, 1987 in Liber 2684 at page 46 in the Orange County Clerk's Office.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; **TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises; **TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF:**

Jan A. Headlee

LIBER 4774PG 243



PLANET WINGS

PAGE 04

KU 33-26455

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS

**CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY**

THIS INDENTURE, made the 28th day of April, nineteen hundred and Ninety-eight  
BETWEEN

JAN A. HEADLEE, residing at 60 Innsbruck Boulevard, Hopswell Junction,  
New York 12533

party of the first part, and

PLANET WINGS, INC., a New York Corporation with offices at 24 Sunnyside Avenue, Middletown, New York 10940.

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the TOWN OF NEW WINDSOR, County of Orange, State of New York, and being more accurately bounded and described as follows:

**BEGINNING** at a point in the southeasterly line of New York State Route 32, said point of beginning being located 1385.87' as measured along the southeasterly line of Route 32 from its intersection with the easterly line of Old Forge Hill Road; thence from said point of beginning and along the southeasterly line of Route 32, North 41° 23' East 100.0' to a point; thence leaving Route 32, South 48° 37' East 222.0' to a point in the lands now or formerly of Schoonmaker Bros.; thence along the line of lands now or formerly of Schoonmaker Bros. South 41° 23' East 100.00' to a point; thence north 48° 37' West 222.0' to the point of **BEGINNING**.

BEING the same premises conveyed to the Grantor herein by deed dated February 12, 1987 and recorded on March 27, 1987 in Liber 2684 at page 46 in the Orange County Clerk's Office.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the assets and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this instrument so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF:**

Jan A. Handlan

LINE: 4774G 243

PLANET WINGS

PAGE 05

STATE OF NEW YORK, COUNTY OF Orange  
On the 28<sup>th</sup> day of April 19 98, before me  
personally came  
Jan A. Headlee  
to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
he executed the same.

Notary Public  
ROBERT S. KLEN  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 574, 000,000  
QUALIFIED IN ORANGE COUNTY  
IN COMMISSION EXPIRES DEC. 31, 2000

STATE OF NEW YORK, COUNTY OF  
On the day of 19 , before me  
personally came  
to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
executed the same.

STATE OF NEW YORK, COUNTY OF  
On the day of 19 , before me  
personally came  
to me known, who, being by me duly sworn, did depose and  
say that he resides at No.  
that he is the  
of  
the corporation described  
in and which executed the foregoing instrument; that he  
knows the seal of said corporation; that the seal affixed  
to said instrument is such corporate seal; that it was so  
affixed by order of the board of directors of said corpora-  
tion, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF  
On the day of 19 , before me  
personally came  
the subscribing witness to the foregoing instrument, with  
whom I am personally acquainted, who, being by me duly  
sworn, did depose and say that he resides at No.  
that he knows  
to be the individual  
described in and who executed the foregoing instrument;  
that he, said subscribing witness, was present and saw  
execute the same; and that he, said witness,  
at the same time subscribed his name as witness thereto.

Margin and Seal Need  
With COVENANT AGAINST CANTON'S ACTS  
S No.

SECTION  
BLOCK  
LOT  
COUNTY OR TOWN

TO

RETURN BY MAIL TO:

Richard Shapiro, Esq.  
PO Box 2121  
Middletown, New York 10940  
Zip No.

Return this space for use of Recording Office.

0124774PC 244

**PUBLIC NOTICE OF HEARING**

**ZONING BOARD OF APPEALS**

**TOWN OF NEW WINDSOR**

**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 02

Request of Planet Wing Restaurant

for a VARIANCE of the Zoning Local Law to Permit:

A FRONT YARD SETBACK OF 38' IN LIEU OF THE  
REQUIRED 60'

being a VARIANCE of Section 48-9, DESIGN SHOPPING (C) PART 2,  
#18.E

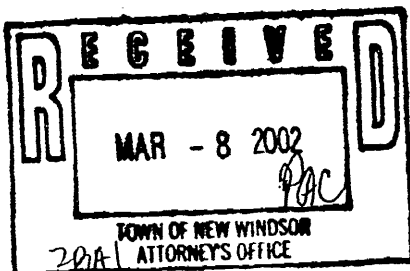
for property situated as follows:

ON THE EAST SIDE OF RTE 32, ± 1000' NORTH OF OLDFORGE HILL RD.

known and designated as tax map Section 45, Blk. 1 Lot 40.21

PUBLIC HEARING will take place on the 11th day of March,  
2002 at the New Windsor Town Hall, 555 Union Avenue, New Windsor,  
New York beginning at 7:30 o'clock P.M.

Lawrence Torley  
Chairman



over →

RUDOLF ROTMEIER  
2 PARK PLACE A3E  
NEWBURGH NY 12550

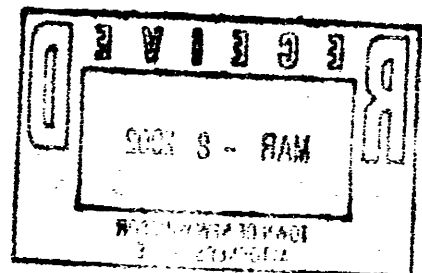
3-5-02

R&F  
@ ZBA  
3/11/02.

Dear zoning board!

I am against, the permit, of a variance to the  
zoning law of 60' setback. The reason,  
it would be difficult, for customers coming  
from the north, to make out our building.

Rudolf Rotmeier  
Owner of property 327 Windsor Hwy.



ZONING BOARD OF APPEALS:TOWN OF NEW WINDSOR  
COUNTY OF ORANGE:STATE OF NEW YORK

-----X

In the Matter of the Application for Variance of

Franco Fidanza (Planet Wings)

# 02-02

AFFIDAVIT OF  
SERVICE  
BY MAIL

-----X

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE )

PATRICIA A. CORSETTI, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at  
7 Franklin Avenue, New Windsor, N. Y. 12553.

That on the 25<sup>th</sup> day of February, 2002, I compared the 44  
addressed envelopes containing the Public Hearing Notice pertinent to this case  
with the certified list provided by the Assessor regarding the above application  
for a variance and I find that the addresses are identical to the list received. I  
then caused the envelopes to be deposited in a U.S. Depository within the Town  
of New Windsor.

Patricia A. Corsetti

Sworn to before me this

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4631  
Fax: (845) 563-4693

## Assessors Office

February 13, 2002

44

Philip Higby, Architect  
148 Grange Road  
Otisville, NY 10963

Re: 45-1-40.21

Dear Mr. Higby:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$65.00, minus your deposit of \$25.00.

Please remit the balance of \$40.00 to the Town Clerk's Office.

Sincerely,

A handwritten signature in cursive script that reads "L. Cook". To the right of the signature is a circular stamp containing the letters "LKD".

Leslie Cook  
Sole Assessor

LC/lrd  
Attachments

CC: Pat Corsetti, ZBA

35-1-57 & 35-1-59.1  
WABNO, Inc.  
310 Windsor Highway  
New Windsor, NY 12553

35-1-59.21  
Brauvin Capital Partners, LLC  
D/B/A BCP, LLC  
30 N. LaSalle Street, Suite 3100  
Chicago, IL 60602

35-1-60  
Jesse D. & Margaret Deyo  
340 Windsor Highway  
New Windsor, NY 12553

35-1-61  
City School District of Newburgh  
Vails Gate Elementary School  
98 Grand Street  
Newburgh, NY 12550

35-1-102.1  
Windsor Enterprises, Inc.  
C/o John Lease  
5020 Route 9W  
Newburgh, NY 12550

35-1-102.2  
Route 32 Associates  
C/o Daniel Rubin Co.  
147-39 175<sup>th</sup> Street  
Jamaica, NY 11434

45-1-26  
Samuel, Ruby & Leon Jones  
28 Continental Drive  
New Windsor, NY 12553

45-1-27  
Jean & Marie Louise Guillotin  
30 Continental Drive  
New Windsor, NY 12553

45-1-28  
Joseph & Lillian Harris  
32 Continental Drive  
New Windsor, NY 12553

45-1-29  
James & Terri Bianco  
34 Continental Drive  
New Windsor, NY 12553

45-1-30  
George Jr. & Laurel Heine  
36 Continental Drive  
New Windsor, NY 12553

45-1-31  
William & Christine Gegenheimer  
1175 67<sup>th</sup> Street  
Brooklyn, NY 11219

45-1-32  
Javier & Norma Garcia  
40 Continental Drive  
New Windsor, NY 12553

45-1-33  
Gerald & Deborah Wynters  
Herbert Milch  
42 Continental Drive  
New Windsor, NY 12553

45-1-34  
Naomi Wessman  
44 Continental Drive  
New Windsor, NY 12553

45-1-35  
Renee Kroun  
The Kroun Living Trust  
46 Continental Drive  
New Windsor, NY 12553

45-1-36  
Chien-Min & Yao-Ming Lu  
48 Continental Drive  
New Windsor, NY 12553

45-1-37  
Anne Hess  
Mary Páscale  
50 Continental Drive  
New Windsor, NY 12553

45-1-38  
Eleanor Kaduk  
P.O. Box 1206  
Newburgh, NY 12550

45-1-39  
North Plank Development Company, LLC  
5020 Route 9W  
Newburgh, NY 12550

45-1-40.1 *against*  
Rottmeier Development Co., Inc.  
C/o Rudolph Rottmeier  
2 Park Place A 3E  
Newburgh, NY 12550

45-1-40.23  
William Horowitz, Corp.  
6 Hamilton Drive East  
North Caldwell, NJ 07006

45-1-41.1  
Charles Catanzaro  
26 Susan Drive  
Newburgh, NY 12550

*against*  
45-1-42  
Susan Schatz  
8 Bridge Street  
Cornwall, NY 12518

45-2-1  
Alexander & Patricia Milne  
27 Continental Drive  
New Windsor, NY 12553

45-2-2  
Walter III & Joan Marvel  
25 Continental Drive  
New Windsor, NY 12553

45-2-3  
Charles Jr. & Kathy Hunter  
15 Musket Place  
New Windsor, NY 12553

45-2-4  
Peter & Dolores Valentino  
13 Musket Place  
New Windsor, NY 12553

45-2-5  
James & Jennifer Mitru  
11 Musket Place  
New Windsor, NY 12553

45-2-6  
Joseph & Joan Kehl  
9 Musket Place  
New Windsor, NY 12553

45-2-7  
Rose Marvel  
Estelle Ryan  
7 Musket Place  
New Windsor, NY 12553

45-3-8  
Ronald Buckner  
Diane Wilkinson-Buckner  
16 Cannon Drive  
New Windsor, NY 12553

45-2-8  
Ann Plass  
5 Musket Place  
New Windsor, NY 12553

45-4-1  
Kenneth & Catherine Rose  
21 Continental Drive  
New Windsor, NY 12553

45-2-9  
Robert & Theresa Penney  
3 Musket Place  
New Windsor, NY 12553

45-4-21  
Cazmer & Dorothy Brodeski  
10 Musket Place  
New Windsor, NY 12553

45-2-12  
Thomas & Beverly Karas  
39 Continental Drive  
New Windsor, NY 12553

Washington Green  
Board of Directors  
C/o Emerald Management  
P.O. Box 268, 2299 Rte 9N  
Fishkill, NY 12524

45-2-13  
Diane Kennelly  
37 Continental Drive  
New Windsor, NY 12553

45-2-14  
Barbara Bamakky A/K/A  
Barbara Vazquez  
35 Continental Drive  
New Windsor, NY 12553

45-2-15  
Steven Ponesse  
Dawn Marie Mulder  
33 Continental Drive  
New Windsor, NY 12553

45-2-16  
Steven & Sheila DeCicco  
31 Continental Drive  
New Windsor, NY 12553

45-2-17  
Edward & Lenore Smith  
29 Continental Drive  
New Windsor, NY 12553

45-3-1  
Donald & Karen Fassbender  
8 Musket Place  
New Windsor, NY 12553



TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

# 02-02

Date: 12-11-02

I. ✓ Applicant Information:

- (a) FRANCO FIRANZA, 24 SUNNYSIDE AVE, MIDDLETOWN NY 10940  
(Name, address and phone of Applicant) 242-5705 (Owner)
- (b) \_\_\_\_\_  
(Name, address and phone of purchaser or lessee)
- (c) \_\_\_\_\_  
(Name, address and phone of attorney)
- (d) Philip G. Higby ARCHITECT, 148 GRANGE RD., OISEVILLE, NY 10963  
(Name, address and phone of contractor/engineer/architect) 845-386-4502

II. Application type:

- ( ) Use Variance ( ) Sign Variance
- (X) Area Variance ( ) Interpretation

✓ III. Property Information:

- (a) C 325 Rte 32, NEWBURGH, NY 12550 45/1/40.21 0.509 Ac  
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? RA & RS
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? REG. 4.1997
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No  
If so, when? \_\_\_\_\_
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail:  
NO NEW EXTERIOR STORAGE PROPOSED. EXISTING  
FENCED ENCLOSURE & CONC. PAD PRESENT FOR  
REFUSE HANDLING & IS TO REMAIN

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law,  
Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_,  
to allow:  
(Describe proposal) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes\_\_\_\_ No\_\_\_\_.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

✓V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-9, Table of C' REGIONAL SHOPPING Regs., Col. #18-E.

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>40,000 SF</u>	<u>22,172 (0.509 AC)</u>	<u>NONE - N/C PRE-EXISTING</u>
Min. Lot Width <u>1200'</u>	<u>100'</u>	<u>NONE - N/C PRE-EXISTING</u>
Reqd. Front Yd. <u>60'</u>	<u>38'</u>	<u>22'</u>
Reqd. Side Yd. <u>30'/70'</u>	<u>38'/75'</u>	<u>NONE/NONE</u>
Reqd. Rear Yd. <u>20'</u>	<u>88'</u>	<u>NONE</u>
Reqd. Street Frontage*		
Max. Bldg. Hgt. <u>20'</u>	<u>120' 9"</u>	<u>NONE</u>
Min. Floor Area*		
Dev. Coverage* <u>—</u> %	<u>—</u> %	<u>—</u> %
Floor Area Ratio** <u>0.5</u>	<u>0.10</u>	<u>NONE</u>
Parking Area <u>18 CARS</u>	<u>25</u>	<u>NONE</u>

\* Residential Districts only

\*\* No-residential districts only

✓ (b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

**V(b). (Area Variance)**

Under this submittal, Mr. Fidanza would like to upgrade the buildings exterior appearance to creating a more pleasing customer image & to perform the additions / alterations required to meet his company's needs.

The site is a non-conforming pre-existing parcel which fails to meet the current zoning standards for minimum width & area (see bulk table on site plan). As the site is narrow & provides only sufficient side yard width for vehicle parking & access around the building; & the existing customer service area is in the front of the building, the only location to expand the building is at the front, toward Route 32. With the addition, the 4 customer parking spaces in front of the building would be eliminated & 6 new spaces constructed at the rear of the property, to provide the 25 spaces shown (18 spaces required with the proposed & existing buildings). Additionally, a curbed & landscaped outdoor seating area would be constructed in front of the addition to better direct incoming / outgoing customer traffic & to provide a more pleasing curb appeal to potential customers.

The site is on NYS Route 32 approximately ½ mile north of the Vails Gate 5 corners, and is situated in the Design Shopping ('C') Zoning District. Typical properties along Route 32 consist of strip malls, supermarkets, fast food restaurants, banks & etc., all commercial establishments of a variety of design & configuration. With the new addition & landscaped outdoor area, the building appearance & site area would be improved and result in a betterment for the area. The curbed access into the site will remain & with the construction of the landscaped area will continue to provide uninhibited ingress / egress & adequate vehicle sight distance.

A residential (R4) Zone District with single family homes currently abuts the rear property line of Planet Wings & the other adjoining businesses. A wood stockade fence (previously installed) is present along the rear property line as a visual barrier & would be maintained.

Concerning the option of not building, Mr. Fidanza has indicated that he is looking to construct the proposed addition & various other improvements to upgrade the buildings appearance and to alter a building that no longer meets his company's needs. Should the expansion not be an option, Mr. Fidanza feels that he would have to reassess his options but in all likelihood would close this store & abandon the property.

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(SEE ATTACHED)

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A.

(a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, \_\_\_\_\_ Regs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. N/A

(a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

(b) Describe in detail the proposal before the Board:

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

### **VIII. (Additional Comments)**

Under this application the parking lot will be re-worked to delete several front spaces & create the new spaces at the rear of the site. New curbing, landscape plantings & brick paver surfacing will be provided at the new outdoor seating area. Site lighting is currently provided by flood lights mounted on the roadway utility poles & various building & sign locations, & is anticipated to remain and/or be re-worked as required for the proposed addition. New building lighting as required for pedestrian interior & site access is anticipated. Drainage for the project is currently via. sheet flow over the pavements to the rear of the property & is expected to remain.

As previously noted Mr. Fidanza would like to construct the building addition & concurrently make various other business improvements (including the re-working of the building exteriors, re-paving of the parking lot & various other interior renovations) to upgrade his business's image & to alter a building that no longer suits his operational needs.

Should this application for variance be granted, the project would continue with its' application for site plan approval with the Town of New Windsor Planning Board.

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

(SEE ATTACHED)

## IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☐ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$500.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: Feb. 25, 2001

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

*James H. [illegible]*  
(Applicant)

Sworn to before me this

25 day of February, 2022.

**DONNA M. WOOD**  
**Notary Public, State of New York**  
**Qualified in Orange County**  
**No. 01WC46767**  
**My Commission Expires Oct. 20 2002**

XI. ZBA Action:

(a) Public Hearing date: \_\_\_\_\_

Date .....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... Frances Roth ..... DR.

160 N. Drury Lane  
Newburgh, N.Y. 12550

DATE			CLAIMED	ALLOWED
1/14/02		Zoning Board NY	75.00	
		Misc - 3		
		Fidanza - 6		
		Foley - 4		
		Mossi - 4		
		Dean - 4		
		Locurto - 3		
		O'Heefe - 8	144.00	
		32		
			219.00	

FIDANZA, FRANCO

MR. TORLEY: Referred by Planning Board for a 22 ft. front yard variance to construct addition to Planet Wings on Route 32 in a C zone.

Mr. Philip Higby appeared before the board for this proposal.

MR. HIGBY: What we're looking to do, I don't know if had you received copies of the maps.

MS. CORSETTI: We only have one copy from the planning board.

MR. HIGBY: Well, what we're looking to do is Mr. Fidanza owns the Planet Wings business in several locations of which one is Route 32 here in Vails Gate. I don't know if you're familiar with it or not, but it's the old Kentucky Fried Chicken site. He had purchased the property sometime ago, probably two years ago. He's done some upgrading on the building and put his business in which is chicken wings, pizza, sandwiches, things of that nature, and what he'd like to do is to expand his business by adding onto the front of the building. It turns out that the front of the building is the only place that we really can add on. What we're looking to do is increase patron dining. The site is one half acre, 5/10 of an acre, 100 feet wide and 222 feet long. And we need to point out that currently is a pre-existing non-conforming lot in that the lot area requires 40,000 minimum, lot width is 200 feet and we're at 100 feet as far as the width. The variance that we're requesting is for the front yard, the existing building is currently at 68.7 feet, actually to the main portion of the building. The vestibule puts another five feet so it's around 63, 64 feet from the building. Under this proposal, we're looking to add 30 feet to the building, knock off the vestibule and add 30 feet to the front of the building which would take the required front yard setback from 60 feet down to about 38.7, 38 feet. What we're looking to do is to in front of the building to basically create a curbed island for outdoor seating, some planting, some low landscaping around the



building. What we're also looking to do is to because there's currently--

MR. KANE: Is there parking in that area right now?

MR. HIGBY: There is, there's four, maybe I should of did this before, this gives a general, if you want to take a look at some of these.

MR. TORLEY: Here's the planning board minutes, they actually have more parking than they require.

MR. HIGBY: I believe there's 20 spaces existing but we're losing four spaces by putting the addition in the front of the building. But what we're doing is we're adding some pavement and parking space in the back of the property.

MR. KANE: So you're still over on the parking that's required?

MR. HIGBY: That's correct, yes, we then end up having 25 and based on the occupant count, we require 18 so we're 7 spaces in addition to what we would need, but we're looking to dress up the building. If Mr. Fidanza gets the permission to go forward with this, we'll be going back to the planning board to go through the formal site plan approval process and whatever in terms of landscaping, site drainage and whatever else their requirements would be. But he has done some improvements on the property already in terms of dressing up the outside, but in terms of landscaping, but if he gets the approval, he'd like to do some repaving of the parking lot, some exterior alteration on the building itself, as well as some interior upgrades in terms of relocating some of the kitchen equipment, you know, locating his pizza ovens to face forward and a number of other things that are good business decisions on his part in terms of generating business for the store. But talking to Mr. Edsall we were looking to shorten the planning board process, come here, see if we can get the approval, if we get got the approval, we'd go back to the planning board and continue on through.

MR. KANE: On the picture that you have with us four parking spaces from the front, about how far out is the building going to extend? Can you show right here, give us a general idea, is it going to come, these are only 17 feet wide?

MR. HIGBY: They are 8 feet wide, on the basis of this here, we're looking that this is the end of the, which is right here, so we're looking to extend this curb, come out through here and approximate.

MR. KANE: And this is going to be a cement dining area or grass, what are you going to put in this?

MR. HIGBY: Probably going to be a combination of everything, certainly be cement, brick, something of that nature for where the dining, the patrons would be located but we'd like to add plantings.

MR. TORLEY: They're going to pave up over to where the sign is.

MR. HIGBY: Put a curb around the sign come back.

MR. TORLEY: Mike, is the outdoor dining, because it's covered, how does that sit as far as setbacks, is that covered in our code, put chairs and stuff in front of the, concrete benches in front of the store, does that count for as part of the structure?

MR. BABCOCK: We never really, we didn't take that into consideration.

MR. KANE: Movable picnic bench is probably what you're going with.

MR. TORLEY: Because it's continuously running from the building up.

MR. HIGBY: Well, the building would stop at this point here.

MR. TORLEY: There's no canopy or cover?

MR. HIGBY: No.

MR. TORLEY: The other thing is existing sign, does that meet the zoning code now? If you're going to do this, we want to try and clean everything up.

MS. CORSETTI: Mike, I don't--

MR. TORLEY: If you have to come through for this, same price for two as one.

MR. HIGBY: I understand that and I appreciate that. As far as I know, there's no violations and as far as I know, there's no plans to change the sign. So I don't know if that fits the bill.

MR. TORLEY: As I drive by and look at the sign, our sign code is pretty restrictive and I don't know, I have the feeling but not measurements that your sign may not be in compliance with the present code and if that's the case--

MR. KANE: If it's grandfathered in.

MR. TORLEY: No, it's not.

MR. KANE: There's no violations on it.

MR. TORLEY: He might as well get it taken care of now if he's going for this zoning change, let's get the sign taken care of too, that means you'll never have a problem in the future.

MR. HIGBY: But I don't know that there is a problem, first off, the posts themselves that are in the ground--

MR. TORLEY: Sign area, the code sign area is very small.

MR. HIGBY: Honestly, I don't know.

MR. BABCOCK: Well, he's got to come back for a public hearing, if that's the wishes and get the thing, we can write up a denial.

MR. TORLEY: Can that be part of the--

MR. BABCOCK: Sure.

MR. TORLEY: This covers you.

MR. HIGBY: I appreciate that.

MR. REIS: Do you intend to diminish the planting area around the sign? Looks like you are.

MR. HIGBY: Well, actually, no, that's going to remain the same width and that will be extended back, this actually ends right here, so we're still maintaining these two islands here, yet extending this back, so this will be picnic tables and landscaping in through here. I don't know if anyone wanted to see any of these other pictures here?

MR. RIVERA: It's not going to impede visibility or vision coming out of a parking lot area?

MR. HIGBY: No, we're trying not to do anything, anything that we do is probably going to be low plantings. Any questions?

MS. CORSETTI: May I keep this?

MR. HIGBY: Sure.

MR. TORLEY: Gentlemen, do you have any questions at this time? Accept a motion on the matter.

MR. REIS: I make a motion that we set up Mr. Franco Fidanza for a public hearing for his requested variance.

MR. KANE: Second the motion.

MR. TORLEY: Do you want to add in possible sign?

MR. REIS: The sign is in violation, add that to the variance requirements.

MR. TORLEY: Save you some time.

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MR. HIGBY: As I say, I appreciate that.

MR. KANE: Bring it up to the owner and he can talk to the zoning department on that.

MR. HIGBY: I'll give Mr. Babcock a call.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

POSSIBLE Z.B.A. REFERRALS:

PLANET WINGS AMENDED SITE PLAN (01-59)

Mr. Phillip Higby appeared before the board for this proposal.

MR. PETRO: Next possible ZBA referral Planet Wings amended site plan Route 32 represented by Mr. Higby. Is that true?

MR. HIBGY: Yes.

MR. PETRO: Proposed addition to existing restaurant. Application proposes addition dining area at the existing restaurant. Plan was reviewed on a concept basis only. Located in an NC zone district of the town. So it's a permitted use in the zone.

MR. HIBGY: Basically, what we'd be looking to do there's sitting on Route 32 currently Planet Wings restaurant owned by Mr. Finenza (phonetic) and basically we're in the neighborhood of 1,500 square feet, there's parking presently right now for I believe it's 18 cars. What we're looking to do is put on the front of the building a new entry and dining room facility to increase the dining patronage for the clients. In doing that, we're looking to add about 720 square feet and that would bring the total gross area of the building to around 2,300 square feet. In doing that, our current front setback is 68.7 feet. That will be reduced by the addition which is 30 feet, that will be reduced to 38.7 feet. A current setback requirement is 60 feet, so we would need a zoning variance because of the reduced front yard. In doing that, there's a number of things that are happening. These entrances at the front curb entrances off of 32 we're looking to basically maintain them, make them, put signage up for in and out. Currently, the traffic pattern is just exactly that one way in, one way out and to create a curbed outdoor dining setting area in front of the new dining facility and with doing that, we still have ample number of car spaces. But what's being proposed in the back here, the edge of the existing blacktop runs all through here, we're also

proposing to extend blacktop area with additional spaces and I believe the actual required car space with the dining room is required is 18 and we end up actually with 29 spaces. So we're well in excess plus we have two spaces for handicapped. The acreage is right now half acre, so that's not compliant with the current zone which I believe is 40,000 square feet. So, we're, the only thing that we're looking to do is to add on, right now, I mean, Mr. Finenza owns the franchise, Planet Wings, and he operates it also and what he's looking to do, he's looking to spruce up the facility, you know, to generate business, of course, but to spruce up the facility and at some point in time after we get the approval of this possibly there will be some renovations on the building as well to do some upgrading on that but we're really not looking to do anything. No change in the curb cuts, as I say, we do have sufficient parking now and the site is tight. There's no doubt about that. But we have ample space for driving in and backing out and it's currently landscaped, there's site lighting on the property. The drainage, there's no catch basins or anything, it's basically sheet flow from 32 back to the rear of the property. Any questions?

MR. PETRO: Conceptually, does anybody have a problem with this plan?

MR. ARGENIO: I don't, Mr. Chairman.

MR. LANDER: No, Mr. Chairman.

MR. KARNAVEZOS: No.

MR. PETRO: Mark, in the rear of the property, there's new pavement, we have a drainage easement through the back of the property, I don't see it on this plan.

MR. EDSALL: To be honest with you, I owe Phil some information that he's going to add to the plan on his way back from the ZBA to show the drainage improvements that were installed in the back.

MR. HIBGY: I believe we talked and I think you mentioned 20 or 30 feet, whatever it was, this is the

back of the property is at 20 or 30 feet.

MR. PETRO: Looks like you have enough room to miss it.

MR. EDSALL: One thing that I think would be worthwhile for the Zoning Board to see in the minutes is the fact that Phil looked at a variety of layout alternatives in order to maintain the drainage easement in the back, provide for the ability for vehicles to turn and loop around the back, he really had no choice but to move forward there. All the other options just don't work. He can't go wider, he can't go back, so the need for the variance is caused by the shape of the lot and the ability to maintain circulation in compliance with the code. So we have probably met for a year on this one.

MR. HIBGY: Quite some time, several work sessions, yeah.

MR. EDSALL: Tried a lot of alternatives, this is the best option.

MR. PETRO: Concrete pad that's existing by the garbage dumpster in the back, what's the pad for?

MR. HIBGY: Right now, it's empty and it might have been a refuse pad for possibly a dumpster, I don't know.

MR. FINENZA: Probably for cardboard, they had cardboard container there.

MR. HIBGY: Currently right now, there's a fenced area for a dumpster.

MR. PETRO: Motion for final approval.

MR. ARGENIO: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion's been made and seconded that the New Windsor Planning Board grant final approval to the Planet Wings site plan amendment on Route 32. Is there any further discussion from the board members? If not,



roll call.

ROLL CALL

MR. ARGENIO	NO
MR. KARNAVEZOS	NO
MR. LANDER	NO
MR. PETRO	NO

MR. PETRO: At this time, you've been referred to the New Windsor Zoning Board for your necessary variances. If you receive those variances and wish to appear before this board, again, for site plan approval or disapproval, you're welcome to do so.

MR. HIBGY: Do you know when the next meeting is or we'll be automatically scheduled?

MS. MASON: They have to correct the bulk table first.

MR. EDSALL: We'll get the, as soon as you the plans in to us with the corrected bulk table, by then, we should have the minutes back, we take your plan with the minutes and referral form and send it over.

MR. HIBGY: But it's automatic, the town does it, I don't have to call to get on the schedule?

MR. EDSALL: No, follow up with them but once we get the plans, we'll send it over.

MR. HIBGY: Okay.

MR. PETRO: Any variances that you receive make sure they're on the plan when you come back here.

MR. HIBGY: Couple of things that Mark was talking about, there's a note here, request for the zoning variance, I mean, you know, the other things I know I have to add. So as far as the landscaping and things of that nature, as we have talked previously once we get the approval we'll come back and glad to take care of that.

MR. PETRO: Very good.

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MR. BABCOCK: We send him a copy of that referral, right?

MS. MASON: Right, then he has to call us.

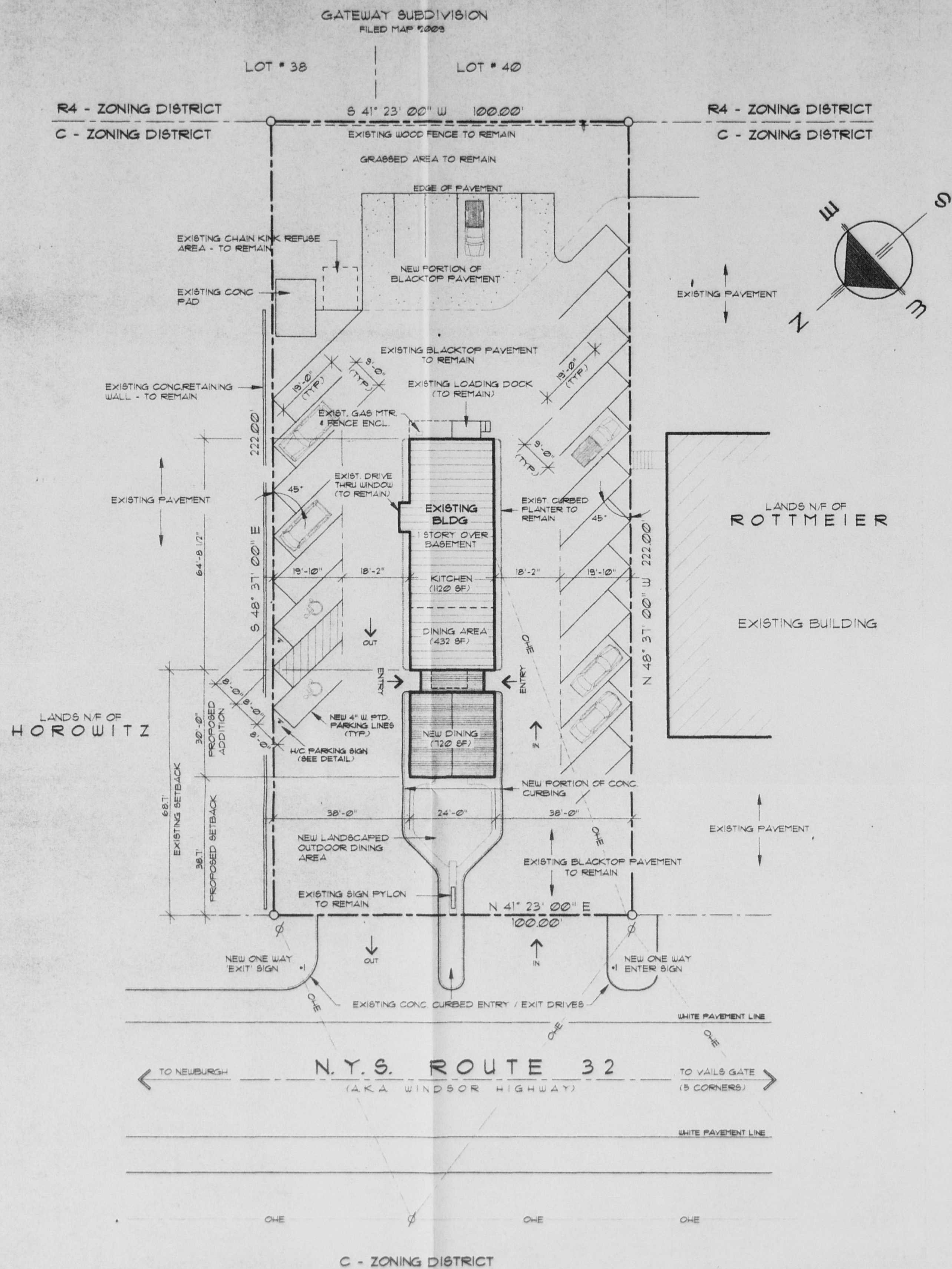
MR. BABCOCK: What happens we'll send you a copy of the referral we send to the ZBA. Once you receive that on it, it will tell you to contact the ZBA. If you contact them prior to that, they won't know what you're talking about. All right?

MR. HIBGY: Good enough.

MS. MASON: It will be a couple weeks, though.

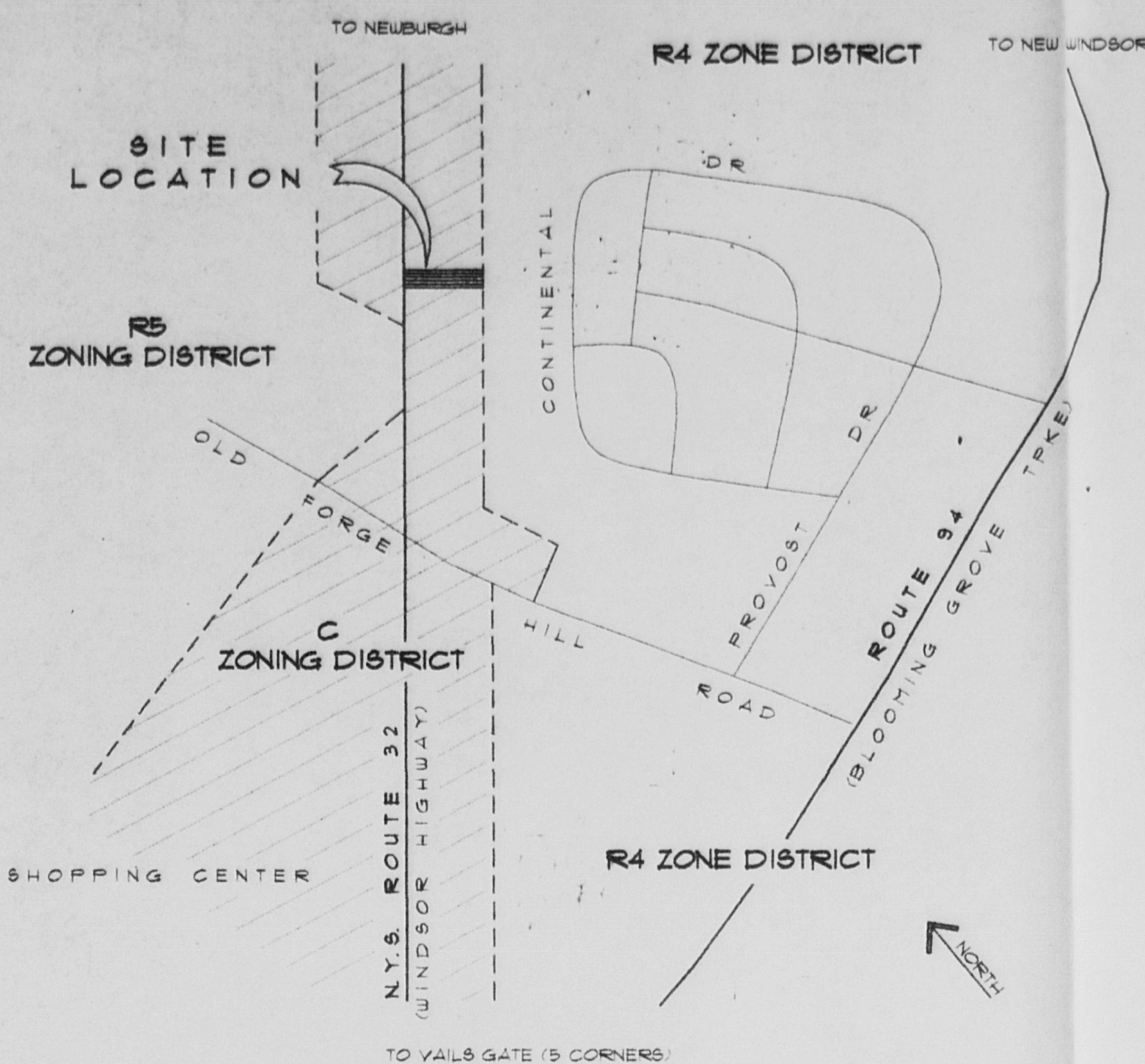
MR. HIBGY: Thank you very much.





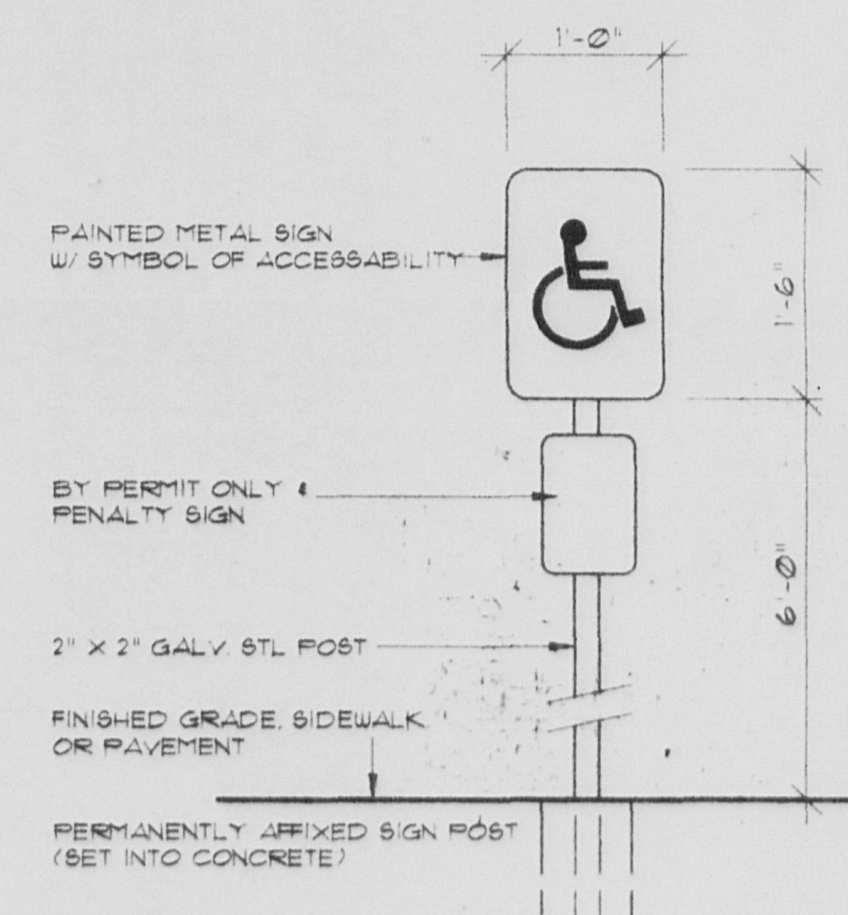
## SITE PLAN

SCALE 1" = 20'



## SITE LOCATION MAP

NOT TO SCALE



## HANDICAPPED PARKING SIGN DETAIL

(NOT TO SCALE)

## SITE DATA:

### OWNER OF RECORD / APPLICANT:

FRANCO FIDANZA  
24 SUNNYSIDE AVENUE  
MIDDLETOWN, NEW YORK 10940

### SITE USAGE:

THE SITE IS CURRENTLY OPERATING AS A PLANET WINGS RESTAURANT WITH ON SITE FOOD PREPARATION AND DINING FOR 20 PATRONS. UNDER THIS PROPOSAL AN ADDITION IS TO BE CONSTRUCTED ON THE FRONT OF THE BUILDING TO PROVIDE A NEW ENTRY AND TO EXPAND THE PATRON DINING BY 32 SEATS (FOR A TOTAL OF 52 SEATS).

### SITE AREA / COVERAGE:

AREA OF SITE = 0.505 ACRE (22,172 SF)  
BUILDING AREA (GROSS) = 2,272 SF TOTAL (NEW + EXISTING)  
SITE COVERAGE = 10.28%  
PAVEMENT AREA:  
EXISTING AREA (SF / %) 17,695 SF / 80%  
COMPLETED PROJECT 19,280 SF / 87%

### BUILDING AREA: 2,272 SF (TOTAL GROSS SF)

EXISTING BUILDING:  
(24' x 64'-8") = 1,552 SF GROSS BUILDING AREA  
PATRON DINING AREA:  
(18' x 24') = 432 SF (GROSS)  
FOOD PREPARATION AREA:  
(42'-8" x 24') = 1,120 SF (GROSS)

NEW BUILDING ADDITION:  
PATRON DINING AREA:  
(24' x 30') = 720 SF (GROSS)

TOTAL BUILDING AREA (NEW + EXISTING) = 2,272 SF (GROSS)

### PARCEL IDENTIFICATION / TAX MAP INFO:

TOWN OF NEW WINDSOR TAX MAP SECTION 45, BLOCK 1, LOT 4021  
CURRENT ADDRESS IS LISTED AS 325 ROUTE 94, NEWBURGH, N.Y.  
SITE IS SERVICED WITH MUNICIPAL SEWER & WATER SERVICE  
SITE IS SERVICED BY VAILS GATE FIRE DISTRICT #15 IN NEWBURGH SCHOOL DISTRICT  
SITE IS NOT IN A DESIGNATED AGRICULTURAL DISTRICT, FLOOD PLAIN, OR WETLANDS

### ZONING DATA:

PARCEL IS SITUATED IN 'C' (DESIGN SHOPPING) ZONING DISTRICT

EATING & DRINKING PLACES INCLUDING CATERING ESTABLISHMENTS IS A USE PERMITTED BY RIGHT - SITE PLAN APPROVAL BY PLANNING BOARD IS REQUIRED

### TABLE OF USE / BULK REGULATIONS - 'C' DESIGN SHOPPING DISTRICT

	REQUIRED:	PROVIDED:
MINIMUM LOT AREA:	40,000 SF	22,172 SF
LOT WIDTH:	100'-0"	100'-0"
LOT DEPTH:	—	222'-0"
FRONT YARD:	60'	38'
REAR YARD:	30'	88'
ONE SIDE YARD:	30'	38'
BOTH SIDE YARDS:	70'	75'-1"
FLOOR AREA RATIO:	0.5	0.10
BUILDING HEIGHT (MAX HT.):	30'	20' +/-
	(10' / FT. TO LOT LINE)	
DEVELOPMENT COVERAGE:	N/A	N/A

\* NON-CONFORMING, PRE-EXISTING CONDITION

### VEHICLE PARKING:

COMPUTED ON THE BASIS OF REQUIREMENTS OF 'C' (DESIGN SHOPPING) DISTRICT FOR RESTAURANTS

1 SPACE / 3 SEATS	
PATRON SEATING	
EXISTING BUILDING = 20 SEATS	
NEW BUILDING ADDITION = 32 SEATS	
52 SEATS PROVIDED (TOTAL)	
52 SEATS / 3 = 18 SPACES REQUIRED	

VEHICLE PARKING SPACES REQUIRED = 18

VEHICLE PARKING PROVIDED: 25 (INCLUDING 2 HANDICAPPED VAN ACCESSIBLE SPACES)

### SIGNAGE:

BUILDING SIGNAGE  
EXISTING BUILDING SIGNAGE TO REMAIN  
FREE STANDING / PYLON SIGNAGE  
EXISTING FREE STANDING SIGN PYLON TO REMAIN

### VARIANCE REQUESTED:

A 22'-0" VARIANCE IS REQUESTED FROM THE TOWN OF NEW WINDSOR ZONING ORDINANCE TO PERMIT A FRONT YARD SETBACK OF 38'-0" IN LIEU OF THE REQUIRED 60'-0"

## SITE LEGEND

	HANDICAPPED PARKING SPACES		WATER LINE
	EDGE OF PAVEMENT		SANITARY SEWER LINE
	UTILITY POLE		UNDERGROUND ELECTRIC LINE
			GAS SERVICE
			PROPERTY LINE

INFORMATION FOR THIS SITE PLAN HAS BEEN TAKEN FROM A MAP ENTITLED 'SURVEY OF PROPERTY FOR PLANET WINGS, INC., TOWN OF NEW WINDSOR, AS PREPARED BY JAMES DILLIN, P.L.S., GOSHEN, NY

## SITE PLAN APPROVAL

TOWN OF NEW WINDSOR PLANNING BD.  
JAMES R. PETRO, JR., CHAIRMAN

DATE

REVISED NOVEMBER 14, 2001 AS PER TOWN OF NEW WINDSOR PLANNING BOARD REVIEW COMMENT LETTER OF OCTOBER 24, 2001. REVISED PARKING LAYOUT TO 45' & TOTAL VEHICLE COUNT PROVIDED

PHILIP G. HIGBY • Architect  
148 Grange Road, Otisville, N.Y. 10963  
(845) 386-4502 (845) 386-8020 (FAX)

PROPOSED ADDITION TO  
**PLANET WINGS INC.**  
ROUTE 32, VAILS GATE, NEW YORK

SITE PLAN, DETAILS & NOTES

JOB No.

DWG No.

DATE

REVISION

OCTOBER 3, 2001

SCALE

1" = 20'

DRAWN BY

CHECKED BY

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OF